

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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CORRECTION OFFICERS' BENEVOLENT ASSOCIATION,  
INC., ANTHONY ROMANO, individually  
and on behalf of all others similarly situated, BRYAN ASHENDORF  
individually and on behalf of all others similarly situated,  
and JOHN and JANE DOES 1 – 2,000,

Plaintiffs,

**NOTICE OF  
MOTION**

-against-

Case No. 17-CV-2899  
(LTS)

THE CITY OF NEW YORK, MAYOR BILL DE BLASIO,  
NEW YORK CITY DEPARTMENT OF CORRECTION, and  
COMMISSIONER CYNTHIA BRANN,<sup>1</sup>

Defendants.  
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**PLAINTIFFS' NOTICE OF MOTION FOR LEAVE TO FILE A FIRST AMENDED AND  
SUPPLEMENTAL COMPLAINT**

Pursuant to Federal Rules of Civil Procedure 15(a), (c) and (d), Plaintiffs CORRECTION OFFICERS' BENEVOLENT ASSOCIATION, INC. ("COBA"), on behalf of its members, ANTHONY ROMANO ("Plaintiff Romano"), individually and on behalf of all others similarly situated, BRYAN ASHENDORF ("Plaintiff Ashendorf"), individually and on behalf of all others similarly situated, (collectively the "Individual Plaintiffs"), and Plaintiffs JOHN and JANE DOES 1 – 2,000 (all parties collectively "Plaintiffs"), by their attorneys, Koehler & Isaacs LLP, respectfully move this Court for an order granting Plaintiffs leave to file a proposed First Amended and Supplemental Complaint ("FASC") attached as Exhibit B to the Declaration of

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<sup>1</sup> By Opinion and Order dated May 30, 2018, which dismissed the Original Complaint in this action in part, this Court substituted Defendant Commissioner Joseph Ponte with current Department of Correction Commissioner Cynthia Brann.

Cynthia Devasia, Esq. in Support of Plaintiffs' Motion for Leave to File a First Amended and Supplemental Complaint dated September 7, 2018.

Plaintiffs seek leave to file the FASC in accordance with this Court's Opinion & Order dated May 30, 2018, primarily to clarify the nature and scope of their 14<sup>th</sup> Amendment substantive due process claim under 42 U.S.C. § 1983 against Defendants, City of New York, Mayor Bill de Blasio, New York City Department of Correction, and Commissioner Brann. Plaintiffs also add two pendent state law claims for violation of special duty negligence against the same Defendants. This motion further seeks to substitute Plaintiffs Dublin, Hines and Castro for new Plaintiff Ashendorf and is also accompanied by a memorandum of law setting forth the reasons why this Court should grant leave to amend.

Dated: September 7, 2018  
New York, New York

KOEHLER & ISAACS LLP  
*Counsel for Plaintiffs*

By: 

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